

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

BRIANNE DRESSEN, *et al.*,

Plaintiffs,

v.

ROB FLAHERTY, White House Director
of Digital Strategy, in his official capacity;
et al.,

Defendants.

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Civil Action 3:23-cv-155

FEDERAL DEFENDANTS' NOTICE OF CASE DEVELOPMENTS IN *MISSOURI v. BIDEN*

The Federal Defendants provide notice of case developments in *Missouri v. Biden* since the parties filed their Joint Status report on September 22, 2023.

On September 22, 2023, the plaintiffs in *Missouri* filed their Petition for Panel Rehearing in the U.S. Court of Appeals for the Fifth Circuit, asking the court to grant panel rehearing and reinstate the district court's preliminary injunction, as modified by the Fifth Circuit, to apply to the Cybersecurity and Infrastructure Security Agency defendants and the State Department defendants, and further reinstate the portion of the injunction that prevents federal officials from participating or collaborating with the Election Integrity Partnership and Virality Project.

On September 25, 2023, the Fifth Circuit issued a summary order stating in full: "IT IS ORDERED that the petition for rehearing is GRANTED." 23-30445 C.A. Doc. 252-2, at 1. On September 26, 2023, the Fifth Circuit issued a second order stating:

IT IS ORDERED that the court order entered on September 25, 2023, is withdrawn.

IT IS FURTHER ORDERED that the mandate issued forthwith, on September 11, 2023, is recalled.

IT IS FURTHER ORDERED that the Appellants are directed to file a response to the petition for rehearing by September 28, 2023, at 12:00 p.m.

IT IS FURTHER ORDERED that the preliminary injunction issued on July 4, 2023, by the United States District Court for the Western District of Louisiana will remain STAYED pending resolution of Appellees' petition for panel rehearing.

23-30445 C.A. Doc. 256-2, at 1-2 (Sept. 26, 2023).

Shortly after the Fifth Circuit issued this order the United States filed a supplemental memorandum regarding an emergency application for a stay with the United States Supreme Court and explained that in light of the Fifth Circuit's September 25 order, including the grant of an administrative stay, the government no longer needed relief from the Supreme Court before the administrative stay entered by Justice Alito expired on September 27. Nevertheless, the United States suggested that the Supreme Court should grant its pending application and stay the district court's preliminary injunction pending any further proceedings in the Fifth Circuit and the filing and disposition of a petition for a writ of certiorari.

As of the date of this filing, the Supreme Court has not acted on the government's stay application, and the *Missouri* plaintiffs' petition for panel rehearing remains under review in the Fifth Circuit.

DATED: September 29, 2023

Respectfully Submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

JOSHUA E. GARDNER

Special Counsel

/s/ Alexander V. Sverdlov

ALEXANDER V. SVERDLOV (NY Bar
4918793)

Trial Attorney

United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.

Washington, DC 20005

Tel: (202) 305-8550

Email: alexander.v.sverdlov@usdoj.gov

PARDIS GHEIBI (D.C. Bar No. 90004767)

Trial Attorney

United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.

Washington, DC 20005

Tel: (202) 305-3246

Email: pardis.gheibi@usdoj.gov

Counsel for Federal Defendants